INFORMATION
FOR THE
VOTERS. NO. 3

# Information for Electors

**No. 3**

## INDEX

# The Manitoba School Question

Before the Confederation of Canada the Battle of the Schools had been hotly fought over a large field in British North America.

Roman Catholics struggled everywhere for the recognition and teaching of their religion in public schools for the support of which they were taxed.

Protestants claimed the same privileges in the Catholic Province of Quebec.

THE GENERAL RESULT of this contest may be summed up as follows :—

In Nova Scotia and New Brunswick, while the law does not expressly provide for the separate system, yet it allows in essentially Roman Catholic districts, Roman Catholic schools to all intents and purposes to work under the Public Schools Act and receive their share of State aid. Separate or dissentient schools have long been in operation in Quebec.

IN ONTARIO, a distinctly Protestant Province, Roman Catholic Separate schools have existed for many years.

As early as 1843 a school bill was adopted in that province whereby provision was made for the protection of children from being required to read or study in any form any religious book, or join in any religious exercise or devotion objected to by parents; and for the establishment of Roman Catholic Separate schools where the teacher of the locality was a Protestant, or vice-versa.

Catholics are to-day permitted to set up a State school in a Protestant community, or Jews or coloured people in either; but Protestants cannot dissent from Protestants, nor Catholics from Catholics.

The Rt. Hon. Sir John A. Macdonald, personally preferred national and undenominational schools ; but out of respect for the conscience of others, and for the sake of harmony on the question of free education for the masses, declared himself at an early day ready to sink his prejudices. When vindicating the old law in Ontario, Sir John Macdonald in 1856, explained that having found it on the statute book, he did not repeal the legislation because "it was one thing to give a right or a franchise and another thing to deprive the people of it."

He also relied upon Dr. Ryerson's opinion. Dr. Ryerson, the founder of the splendid system of schools in Ontario, reported that the Separate school clause did not retard the progress of the increase of common schools, but on the contrary that it "widens the basis of the common school system."

In 1863, Rev. James Fraser, afterwards Bishop of Manchester, reported to a Royal Commission upon a visit to Canada :—

"One of the most interesting features in the Canadian system is the way in which it has endeavoured to deal with what we find to be one of our most formidable difficulties, the religous difficulty.

"In Canada it has been dealt with by the use of two expedients, one by prescribing certain rules and regulations which it was hoped would allow of religious instructions being given in the schools without introducing sectarianism or hurting consciences; the other by permitting in certain cases, the establishment of 'Separate' which are practically denominational, and, in fact, Roman Catholic schools.

"The permission under certain circumstances to establish Separate, that is denominational schools, is a peculiar feature of the system both of Upper and Lower Canada. Dr. Ryerson thinks that the admission of the principle is a thing to be regretted, though at the same time he considers that the advantages which it entails entirely rests with those who avail themselves of it, and he would not desire to see any coercion used either to repeal or modify them."

In the Province of Quebec, a Roman Catholic Province, the Public school system is denominational. Any number of persons enjoy the right to set up what are termed dissentient schools in their own locality, and these when established, form part of the Public school system.

In the CANADIAN DEBATES UPON THE BRITISH NORTH AMERICA ACT, John Sandfield Macdonald, a leading Catholic from Ontario, said :—

I, as a Catholic, take the ground that I prefer my people to trust to the good sense of the majority in Ontario, as the minority in Quebec should trust to the majority there, rather than to have any divided power on the question of education.

And he moved :—

That the following words be added to the original motion :—"And that it be an instruction to the said committee to consider whether any constitutional restriction which shall exclude from the Local Legislature of Upper Canada the entire control and direction of education, subject only to the approval or disapproval of the general Parliament, is not calculated to create widespread dissatisfaction, and tend to foster and create jealousy and strife between the various religious bodies in that section of the province."

That amendment was debated, and the result of the debate in the vote was that it was negatived by an almost overwhelming majority, the fig-

ures standing 8 for and 95 against. That article for the protection of the Separate schools wherever established was put in the constitution after discussion, and after an antecedent strife of half a century in this country, but it was put in by and with the full consent of men of both shades of politics, and of men of the very strongest personal feeling in opposition to the principle of Separate schools. To show the importance of the question to the Quebec Protestant minority, and the views of the strong men of the time, witness Sir A. T. Galt, who said :—

This was a question in which in Lower Canada they must all feel the greatest interest, and in respect to which more misapprehension might be supposed to exist in the minds, at any rate of the Protestant population, than in regard to anything else connected with the whole scheme of federation.

Mr. Holton, representing the English Protestants, said :—

The English Protestants of Lower Canada desire to know what is to be done in the matter of education before the final voice of the people of this country is pronounced on the question of Confederation.

Sir John Macdonald replied :—

Before Confederation is adopted the Government would bring down a measure to amend the school law of Lower Canada, protecting the rights of the minority.

Sir John Rose, a Protestant, said :—

I know you must satisfy them that their interests for all time to come are safe, that the interests of the minority are hedged round with such safeguards that those who come after us will feel that they are protected in all they hold dear.

Sir George Cartier, a Catholic and a Frenchman, in reply to a question of Sir John Rose, said :—

It is the intention of the Government that in that law there will be a provision that will secure the Protestant minority in Lower Canada such management and control over their schools as will satisfy them.

Sir E. P. Tache said :—

Mr. Sanborn gave expression to the fear that the Protestant English element of Lower Canada would be in danger if this measure should pass. But if the lower branch of the Legislature were insensate enough and wicked enough to commit some flagrant act of injustice against the English Protestant portion of the community, they would be checked by the general—that is the Federal Government.

Hon. Mr. Laframboise said :—

There is one certain fact, and that is that the Protestants of Lower Canada have said to the Government "Pass a measure which shall guarantee to us the stability and protection of our educational system and of our religious institutions and we will support your scheme of Confederation ; unless you do we will never support you.

Hon. George Brown said :—

It is confessedly one of the concessions from our side that have to be made to secure this great measure of reform. But surely I for one have not the slightest hesitation in accepting it as a necessary condition of the scheme of union, and doubly acceptable must it be in the eyes of gentlemen opposite, who were the authors of the bill of 1863.

Hon. Sir Oliver Mowat, who was one of the fathers of confederation, and who took part in these discussions, said, as late as March, 1890 :—

In what spirit was the new constitution framed ? It was a compromise all round, and an essential part of that compromise—so essential that without it Confederation could never have taken place— was the provision by which the Separate schools of Ontario, and the Protestant dissentient schools of Quebec, were guaranteed by the Imperial enactment.

But for this being guaranteed, we would have had no Dominion Parliament with its present limited powers, and no provincial legislatures with their powers.

Hon. Alexander Mackenzie, not an upholder of the Separate school system, said when speaking against John Sandfield Macdonald's motion :—

Though I am against the Separate school system, I am willing to accept this Confederation even though it perpetuates a small number of Separate schools. Under the present legislative union we are powerless in any movement for the abrogation of the Separate system ; it is even very doubtful if we could resist the demands for its extension. We will not be in a worse position under the new system, and in one respect we will have a decided advantage, in that no further change can be made by the Separate school advocates. We will thus substitute certainty for uncertainty. I deeply regret that the hon, member should have thought it necessary for any purpose to move this resolution.

And Sir Alexander Galt, who headed this agitation, who was the prime mover in bringing this question to its final resting place in the constitution of this country, in his pamphlet, published afterwards, referring to the circumstances, said :—

Much of the principle and mode of taxation, Separate management and other important points are not secured by the Act of Confederation, but rest upon the provincial statute of Quebec ; that is subject to repeal.

In 1866 the Provincial Association of Protestant Teachers of Lower Canada presented a petition to Her Majesty pointing out :—

(1). The existence of distinct educational system in Upper and Lower Canada, notwithstanding their legislative union.

(2). That under the educational law of Lower Canada Protestants were liable to be taxed for the support of Roman Catholic schools, and that difficulties existed in establishing Separate schools.

(3). That the prospect of Confederation of the Provinces under a system where education should be under the control of the Local Legislature had alarmed the Protestants of Lower Canada.

They prayed that their educational rights be not left to the control of the majority in the Local Legislature "without any guarantee whatever."

Sir (then Mr.) Alexander Galt was the representative of the Protestants in Quebec, and as such was persuaded to join the delegates who went to London to discuss and promote the Act for the Union of the Provinces. The delegates sailed for England on 7th November, 1866. On 5th December, 1866, Mr. Galt proposed the clause which, subject to drafting, became sub-section 3, of clause 93, of the B.N.A. Act of 1867.

The provisions of the British North America Act respecting education are as follows :—

## The British North America Act, 1867.

"93. In and for each province the legislature (i.e., the provincial legislature) may exclusively make laws in relation to education, subject and according to the following provisions :—

"(1.) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union.

"(2.) All the powers, privileges, and duties at the union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholic subjects shall be and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec.

"(3.) Where in any province a system of separate or dissentient schools exists by law at the union, or is thereafter established by the legislature of the province, an appeal shall lie to the Governor-General-in-Council from any act or decision of any provincial authority of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

"(4.) In case any such provincial law as from time to time seems to the Governor-General-in-Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor-General-in-Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor-General-in-Council under this section."

In connection with sub-section 3, the Quebec Legislature, in 1869, enacted a law to amend the law respecting education in the Province of Quebec.

By this Act the rights of the Protestant minority were materially extended, and the pledges to this effect given by Sir (then Mr.) George Cartier and his colleagues before Confederation were redeemed.

The Rev. E. I. Rexford, formerly Secretary of the Department of Public Instruction, wrote in 1895 as follows :—

"THE RIGHTS OF THE PROTESTANTS IN QUEBEC, therefore, as the case of the Roman Catholics in Manitoba, to a large extent, certainly all post-union rights, depended upon the solution of the question now before the Canadian Parliament, viz., the efficacy of an appeal by the minority against the act of the majority of a province effecting their educational rights to the Governor-General-in-Council."

In 1875 another important educational measure was passed by the Legislature. This Act provided (1) that the Roman Catholic bishops of the province should be ex-officio members of the Council of Public Instruction ; (2) that one-third of the Council should be Protestant ; and (3) that each of the two committees of the Council should have the power of separate and independent action in reference to all matters which concern the educational work under their respective control.

"This was a most important provision. Under it each committee appoints its own chairman and secretary, and conducts its business as an independent council. Upon the recommendation of Roman Catholic or Protestant Committee, as the case may be, professors of Normal schools, school inspectors, members of the boards of examiners, and the secretaries of the Department of Public Instruction, are appointed by the Government. By placing the choice of these officers for Protestant institutions in the hands of the Protestant Committee, an important guarantee has been given that these appointments will be made in a manner acceptable to the Protestant minority. And although it is not stated in the law that one of the two secretaries of the Department of Public Instruction shall be a Protestant, this is practically secured by the method of appointment."

"In 1869 a law concerning education was passed by the new Legislature of Quebec, which contained several important provisions. These were adopted after numerous consultations between leading representatives of the Protestant minority and the Government of the day. Among other things it provided that the Council of Public Instruction should be composed of fourteen Roman Catholics and seven Protestants, and that these two sections should be committees of the council for the consideration of matters pertaining to schools of their own faith. These committees could not take any formal action, however, except through the council. It also provided that grants for superior education should be divided between the Roman Catholic and Protestant institutions, according to the Roman Catholic and Protestant population of the province.

"The law of 1869 also extended the privileges of dissentients in several respects, and established the present system of the division of school taxes upon incorporated companies between the minority and the majority in a municipality in proportion to

"the number of children attending "their respective schools."

THE EARL OF CARNARVON, on the second reading of the British North America Bill, on 19th February, 1867, said :—

Lastly, in the 93rd clause, which contains the exceptional provisions to which I have referred, your lordships will observe some rather complicated arrangements in reference to education. I need hardly say that that great question gives rise to nearly as much earnestness and division of opinion on that, as on this, side of the Atlantic. This clause has been framed after long and anxious controversy, in which all parties have been represented, and on conditions to which all have given their consent. It is an understanding which, as it only concerns the local interests affected, is not one that Parliament would be willing to disturb, even if, in the opinion of Parliament, it was susceptible of amendment; but I am bound to add as the expression of my own opinion, that the terms of the agreement appear to me to be equitable and judicious. For the object of the clause is to secure to the religious minority of one province the same rights, privileges, and protection which the religious minority of another province may enjoy. The Roman Catholic minority of Upper Canada, the Protestant minority of Lower Canada, and the Roman Catholic minority of the Maritime Provinces, will thus stand on a footing of entire equality. But in the event of any wrong at the hand of the local majority, the minority have a right of appeal to the Governor-General-in-Council, and may claim the application of any remedial laws that may be necessary from the central Parliament of the Confederation.

## CANADIAN STATESMEN AS TO SETTLEMENT OF QUESTION.

The Hon. Oliver Mowat, on 25th March, 1890, speaking in the Ontario Legislature, says :—

In what spirit was the language of the constitution framed ? It was a compromise all round, and an essential part of that compromise—so essential that without it Confederation could never have taken place—was the provision by which the Separate schools of Ontario and the Protestant dissentient schools of Quebec were guaranteed by Imperial enactment, and without these being guaranteed, we could have had no Dominion Parliament with its present limited powers, and no provincial legislatures with their powers.

Hon. Alexander Mackenzie, when Premier, in the debate on the New Brunswick school question said :—

I believe in free schools, in the non-denominational system ; and if I could persuade my fellow-countrymen in Ontario and Quebec, or any other province, to adopt the principle, it is the one I would give preference to above all others. For many years after I had a seat in the Parliament of Canada I waged war against the principle of Separate schools. I hoped to be able, young and inexperienced as I then was, to establish a system to which all would yield their assent. Sir, it was found to be impracticable in operation, and impossible in political contingencies.

The statement made by Hon. G. W. Ross, Minister of Education for Ontario, 19th December, 1895, in Montreal, is as follows :—

I believe, under the Act by which Manitoba entered the union, it was understood by all the other provinces that the minority, whether Protestant or Catholic, would have the right to establish denominational schools. It was the merest mockery to empower the Dominion Government to interfere for the protection of denominational schools unless it was assumed that such schools existed, and that in the changes incident to the growth of a new country they might need protection form possible interference some time in the future.

The Hon. William Macdougall, who was one of the members of Parliament in 1870, and an actor later in the bringing of Manitoba into this Dominion, said in 1892 :—

We certainly intended that the Catholics of Manitoba, or whichever denomination might be in a minority, should have the right to establish and maintain their own schools. You see the words "or practice" were inserted in the Manitoba Act, so that the difficulty which arose in New Brunswick, where Separate schools actually existed but were not recognized by law, should not be repeated in Manitoba. And then the right of appeal to the Federal Parliament was given to make assurance doubly sure.

Confederation in 1870 embraced Nova Scotia, New Brunswick, Quebec, and Ontario.

In that year what are now the Province of Manitoba and the North-West Territories were acquired by Canada. The Catholic community of the Western Territory undoubtedly shared the views of their church in Ontario and Quebec, and desired their people should be educated only in schools where the influence and teachings of the Roman Catholic religion prevailed.

While State aid was absent (there being no local Legislature) a system of voluntary and denominational schools existed in what is now known as Manitoba. These schools received assistance. At that time, of the 11,000 people settled along the Red River, 6,000, or a majority of 1,000, were Roman Catholics.

NEGOTIATIONS BETWEEN GREAT BRITAIN AND CANADA WITH THE PEOPLE OF MANITOBA prior to the Union were accompanied by assurances from the Dominion Government—assurances which were calculated to settle in the minds of a simple-minded people such as they, that good faith would be kept and security would belong to them if they became a component part of Confederation. In the instructions of the Governor-General to Colonel de Salaberry, to the Rev. Mr. Thibault and to Mr. Donald A. Smith, that is plainly set forth. The instructions to the two first-named state :—

You will not fail to direct the attention of the mixed society inhabiting the cultivated borders of the Red River and Assiniboine, to the fact which comes within your daily knowledge and observation, and is patent to all the world, that in the four provinces of this Dominion, men of all origins, creeds, and complexions, stand upon one broad footing of perfect equality in the eye of the Government and the law ; and that no

Administration could confront the enlightened public sentiment of this country, which attempted to act in the North-West upon principles more restricted and less liberal than those which are fairly established here.

In the instructions to Mr. Donald A. Smith, the third commissioner, this sentence appears :—

The people may rely upon it that respect and protection will be extended to the different religious denominations, and that all the franchises which have existed, or which the people may prove themselves qualified to exercise, shall be duly continued or liberally conferred. That "right shall be done in all cases."

The Governor-General, writing to Mr. McTavish, the Governor of the Hudson Bay Company, on December 6th, 1869, said :—

And the inhabitants of Rupert's Land, of all classes and persuasions, may rest assured that Her Majesty's Government has no intention of interfering with or setting aside, or allowing others to interfere with the religions, the rights, or the franchises hitherto enjoyed, or to which they may hereafter prove themselves equal.

The negotiations for union between the inhabitants of Manitoba and the Government of Canada ended in the Act of 1870; section 22, containing the terms respecting education.

The section reads as follows :—

## The Manitoba Act.

"22. In and for the province (i.e., of Manitoba) the said legislature (i.e., the provincial legislature) may exclusively make laws in relation to education, subject and according to the following provisions :—

"(1.) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or practice in the province at the union.

"(2.) An appeal shall lie to the Governor-General-in-Council from any act or decision of the legislature of the province, or of any provincial authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

"(3.) In case any such provincial law as from time to time seems to the Governor-General-in-Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor-General in-Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor-General-in-Council under this section."

An amendment proposed when the bill was under consideration in the House of Commons at Ottawa, raised the question of granting to the minority the right to establish separate schools. Opposition to the clause was made by those who insisted upon leaving the matter to be settled by the people of the Province, and by those who objected on principle to sectarian schools. The amendment was lost, yeas, 34, nays 81.

An analysis of the vote shows that excluding Catholic members, there was a majority of Protestants supporting this feature of the bill for the protection of the rights of the minority.

Mr. Mackenzie (Premier of Canada from 1874 to 1878) opposed this clause in 1870, but in 1875, speaking in the House of Commons, said :—

"For many years after I held a seat in the Parliament of Canada I waged war against the principles of Separate schools. I hoped to be able—young and inexperienced in politics as I then was—to establish a system to which all would ultimately yield their assent. Sir, it was found to be impracticable in operation, and impossible in political contingencies.

In the language of Lord Herschell, Lord Chancellor of Great Britain, when delivering judgment in the case of Brophy v. the Attorney-General :—

Those who were stipulating for the provisions of section 22 as a condition of the union, and those who gave their legislative assent to that Act, by which it was brought about, had in view the perils then apprehended.

The terms upon which Manitoba was to become a province of this Dominion were matters of negotiation between representatives of the province of Manitoba and the Dominion Government. The terms agreed upon, so far as education was concerned, must be taken to be embodied in the 22nd section of the Act of 1870.

There is no doubt either what the points of difference were, and it is in the light of these that the 22nd section of the Manitoba Act of 1870, WHICH WAS IN TRUTH A PARLIAMENTARY COMPACT, must be read.

It was not to be doubted that the object of the first subsection 22 was to afford protection to denominational schools.

THE MANITOBA SCHOOL ACT OF 1871, subsequently adopted by the local legislature, provided for a school Board with two sections, one Protestant and the other Catholic. A Protestant superintendent and a Catholic superintendent. The management of each class of schools in the hands of the respective Boards—Protestant and Catholic school districts were created.

The legislative grant was divided between Protestant and Roman Catholic schools. In 1890, by an Act of the Manitoba Legislature, the two Boards were swept away and all schools were made subject to the Department of Education, and an advisory board, which was empowered to prescribe text books and forms of religious exercise. The legislative grant was withdrawn from every school not conducted under the Department.

The Rev. Principal Grant, who went up to Manitoba, and later to the North-West, as an independent inquirer to look into the question, and whose opinion is not, on the whole

at all favourable to the Dominion Government, was constrained to say this :—

The Government of Manitoba made a great mistake in summarily abolishing instead of reforming the old school system. They have been at war ever since 1890, with the prejudices, and feelings, and even religious convictions of a section of the population that deserved to be treated with the utmost consideration. This war will end only when they make concession which, to the mass of the people interested, will seem reasonable. The sooner these are made the better.

The onus lies on the Provincial Government to make concessions to meet the views of the reasonable members of the aggrieved minority.

THE ACT OF 1890 was passed by a Grit vote. On the 5th March, all Conservatives, including every Roman Catholic in the Local House, voted against it. It passed 26 to 10. On 15th March, the third reading of the Bill was adopted, by 25 to 11. The minority included six Protestants, all Conservatives.

This Act was taken exception to by the Catholics as "ultra vires," being, as alleged, contrary to the provisions of the Canadian constitution.

It has been argued that if the Dominion Government were sincere they should have DISALLOWED THE ACT IN 1890.

The Act of 1890, as a whole, was within the powers of the Legislature.

The greater part of it ought not to be interfered with, and will not be.

That parts which the Law Lords in 1895 suggest, interferes with the rights of the Roman Catholics acquired at the hands of the legislature previous to 1890, alone requires amendment. Disallowance would have been against the settled policy of Canada, respecting educational acts and would have gone beyond what is requisite in the premises.

The Toronto Globe of Nov. 27, 1876, shows what the GENERAL IDEA AS TO RIGHTS OF MINORITIES RESPECTING EDUCATION WAS AT THAT TIME :—

We noticed recently the movement in Manitoba, having for its object the reform and improvement of the Public school law of that Province, and referred to the efforts made in other parts of the Dominion to effect such arrangements as, while securing the practicable system of education, are designed to protect the rights and consult the conscientious scruples of minorities. But it must not be understood from this that in Manitoba, any more than elsewhere, the rights of minorities can be overridden or ignored.

The Local Legislature may, of course, effect any changes in the administration of the late laws, and not violate existing rights and privileges, but can do more than this. The Manitoba Act, which is the constitutional charter of the Province of Nova Scotia, contains the same provisions that are to be found in the British North America Act, in regard to the rights of minorities in the other provinces in this respect."

Sir John Macdonald, Prime Minister, wrote a letter in 1889 to a member of the Manitoba Legislature, in which he said :—

"You ask me for advice as to the course you should take upon the vexed question of separate schools in your province. There is, it seems to me, but one course open to you. By the Manitoba Act, the provisions of the British North America Act (sec. 93) respecting laws passed for the protection of minorities in educational matters are made applicable to Manitoba, and cannot be changed; for by the Imperial Act confirming the establishment of the new provinces, 34 and 35 Vict., c. 33, sec. 6, it is provided that it shall not be competent for the Parliament of Canada to alter the provisions of the Manitoba Act in so far as it relates to the province of Manitoba. Obviously therefore the separate school system in Manitoba, is beyond the reach of the Legislature or of the Dominion Parliament."

In the case krown as Barrett's case the Privy Council decided in 1892, greatly to the surprise of most Canadian public men, that whatever was actually intended when the Federal Act of 1870 was passed, its provisions did not prevent the Manitoba Legislature repealing the act of 1871—there being no legislative or other "rights" existing on the part of the Roman Catholics prior to the Union which were "prejudicially affected" (Manitoba Act, 1870, sub-section 1).

The Catholics then presented an appeal to the Governor-General in Council, under sub-section 2, of the Manitoba Act of 1870, contending that the Act of 1890 affected their rights which were acquired under the provisions of Acts of the Manitoba Legislature in 1871, and subsequently.

SIR JOHN THOMPSON AT TORONTO (Globe, Jan. 14th, 1893) defined his policy as follows :—

An appeal has been presented, asking the Governor-General and his Government to interfere with the existing system of education in the Province of Manitoba, as it was established about a year ago. Our right to interfere, to say nothing of the policy of interference, is challenged by those who stand upon the other side, and within the next ten days we are to hear that question discussed as to our power and as to our obligation under the constitution to deal with it.

Let no man or woman in this hall or elsewhere suppose that lurking in the breast of any minister of the Government of Canada there lies a secret design to interfere with the legitimate right and powers of provinces. (Loud applause). We will not interfere with the rights and powers of any province, nor will we desert any duty which is imposed upon us by the constitution, no matter how painful it might be to our feelings or how obnoxious to others it may be. I want simply to impress upon you this, that candidly and honestly we intend to be guided in that matter simply by the constitution, and by the constitution as it will be expounded by the highest authorities that can be got to expound it, and not by the private opinion of any member of the Government. When I tell you, therefore, that we in-

tend to be guided by the constitution, and to stand by the constitution on that subject, I am not equivocating, and I am not concealing. The whole question will be argued by the Council on both sides, in the face of the whole people of Canada, and you will be able to see in the next ten days the arguments that are presented on both sides, and you will be able to measure the value and weight which ought to attach to them, and eventually you will be satisfied, whatever impulses excite one class of people or another, that we have simply done our duty by the law whether it agrees with our own religious inclinations or is against them. (Loud applause).

Mr. N. Clarke Wallace was on the platform as a member of Sir John Thompson's Government, when the above statement was made.

In 1893, in the House of Commons, Sir John Thompson said :—

The hon. member for L'Islet (Mr. Tarte) challenges me, as he surely had no right to challenge me, to state in advance what the policy of the Government would be if such and so should happen. I tell him that the answer I can give him now, and the answer I shall be able to give him, if that event should happen, would be this, that the Province of Manitoba is a constitutional province, and that whether it be in the hands of legislators opposed to us, or in the hands of legislators in sympathy with us, we have every reason to believe and to rest assured that she will obey the dictates of the highest tribunals of the Empire as to what the constitution is, regardless of consequences, regardless even of the displeasure of the majority, if the decision should be against the majority, and that, so far as the disposal of this appeal is concerned at any rate, the minority must bow to that decision, and the Federal Executive will advise his Excellency accordingly.

On January 22nd, 1893, THE APPEAL CAME UP for argument in the first instance before the Governor-General-in-Council, when it was determined to make the reference to the courts. The Government of Manitoba was invited to be represented on that occasion, but they declined to attend or to take any notice of the proceedings.

The Governor - General -in-Council then DETERMINED TO REFER A CASE TO THE COURTS. An order-in-Council was adopted on 22nd February, 1893, directing a reference. The first step, however, was to notify the Government of Manitoba that such a course had been decided upon, and the provincial Government was invited to confer with the Federal authorities in settling the form of the case to be submitted, and the questions to be considered before the courts.

The following is extracted from the order-in-Council :—

"The committee therefore advise that a case be prepared on this subject, in accordance with the provisions of the Act, 54-55 Vict., chapter 25, and they recommend that if this report be approved a copy thereof be transmitted by telegraph to His Honour the Lieutenant-Governor of Manitoba, and to John S. Ewart, counsel for the petitioners, in order that if they be so disposed the Government of Manitoba, and the said counsel, MAY OFFER SUGGESTIONS AS TO THE PREPARATION OF SUCH A CASE, AND AS TO THE QUESTIONS WHICH SHOULD BE EMBRACED THEREIN."

Two months passed and no response came from Winnipeg. Finally on the 22nd of April, 1893, the Federal Government had to prepare its case without assistance from Manitoba. A draft of the case was prepared in draft form, subject to revision by the province.

On the 8th of July, 1893, no reply had been received from the Manitoba Government, and no suggestion as to the form of the case to be referred had been made on its behalf, THE DRAFT CASE was approved, and the order-in-Council went on to say :—

"The Minister recommends that the case as amended, copy of which is herewith submitted, be approved by Your Excellency, and that copies thereof be submitted to the Lieutenant-Governor of Manitoba, and to Mr. Ewart, with the information that the same is the case which it is proposed to refer to the Supreme Court of Canada touching the statutes and memorials above referred to."

In October, 1893, ARGUMENT OF THE CASE TOOK PLACE BEFORE THE SUPREME COURT AT OTTAWA. Mr. Wade appeared as counsel on behalf of the Province of Manitoba, but declined to argue the case; and the court requested Mr. Christopher Robinson, Q.C., to argue in the interest of Manitoba, and he did so.

An order-in-Council passed at Ottawa ON THE 26th OF JULY, 1894, recited the memorial presented to the Government of the Dominion on behalf of the Roman Catholic minority of Manitoba, complaining of the law of 1890, and praying for relief. That order-in-Council set out with considerable fulness the grievances complained of by the minority, and it was communicated along with a copy of the memorial itself, by the authorities at Ottawa, to those of Manitoba. From the concluding paragraph of that order is taken the following extract :—

"The statements contained in this memorial are matters of the deepest concern and solicitude in the interests of the Dominion at large, and it is a matter of the utmost importance to the people of Canada that the laws which prevail in any portion of the Dominion should not be such as to occasion complaint of oppression or injustice to any class or portion of the people, but should be recognized as establishing perfect freedom and equality, especially in all matters relating to religion and to religious belief and practice, and the committee therefore humbly advise that Your Excellency may join with them in expressing the most earnest hope that the Legislature of Manitoba may take into consideration at the earliest possible moment the complaints which are set forth in this petition, and which are said to create dissatisfaction among Roman Catholics, not only in Manitoba, but likewise throughout Canada, and may take speedy measures to give redress in all the matters in relation to which any well-founded complaint or grievance be ascertained to exist."

The Legislature never saw this message, but in October, 1894, the Government of Manitoba made a reply, containing the following :—

"The questions which are raised have been the subject of most voluminous discussion in the Legislature of Manitoba during the past four years; all of the statements made in the memorial and many others have been repeatedly made to and considered by the Lgislature."

In other words, the reply says in effect :—"There is no use in further enquiry or consideration in the matter; it has been fully enquired into and considered for four years, and there is nothing more to be said." And this is the Government that now calls for an investigation, and protests that a full enquiry should be made before invoking the powers of Parliament.

THE PRIVY COUNCIL IN ENGLAND DECIDED IN THE BROPHY CASE ON JANUARY 20TH, 1895, that there was a "Parliamentary compact" contained in the Manitoba Act of 1870. What did the Law Lords say? Referring to the Manitoba Act Lord Herschell, speaking for the Judicial Committee of the Privy Council, said :—

THE SOLE QUESTION TO BE DETERMINED IS WHETHER A RIGHT OR PRIVILEGE WHICH THE ROMAN CATHOLIC MINORITY PREVIOUSLY ENJOYED HAS BEEN AFFECTED BY THE LEGISLATION OF 1890. THEIR LORDSHIPS ARE UNABLE TO SEE HOW THIS QUESTION CAN RECEIVE ANY BUT AN AFFIRMATIVE ANSWER. CONTRAST THE POSITION OF THE ROMAN CATHOLICS PRIOR AND SUBSEQUENT TO THE ACTS FROM WHICH THEY APPEAL. BEFORE THESE PASSED INTO LAW THERE EIXSTED DENOMINATIONAL SCHOOLS, OF WHICH THE CONTROL AND MANAGEMENT WERE IN THE HANDS OF ROMAN CATHOLICS, WHO COULD SELECT THE BOOKS TO BE USED AND DETERMINE THE CHARACTER OF THE RELIGIOUS TEACHING. THESE SCHOOLS RECEIVED THEIR PROPORTIONATE SHARE OF THE MONEY CONTRIBUTED FOR SCHOOL PURPOSES OUT OF THE GENERAL TAXATION OF THE PROVINCE, AND THE MONEY RAISED FOR THESE PURPOSES BY LOCAL ASSESSMENT WAS, SO FAR AS IT FELL UPON CATHOLICS, APPLIED ONLY TOWARDS THE SUPPORT OF CATHOLIC SCHOOLS. WHAT IS THE POSITION OF THE ROMAN CATHOLIC MINORITY UNDER THE ACT OF 1890? SCHOOLS OF THEIR OWN DENOMINATION, CONDUCTED ACCORDING TO THEIR VIEWS, WILL RECEIVE NO AID FROM THE STATE. THEY MUST DEPEND ENTIRELY FOR THEIR SUPPORT UPON THE CONTRIBUTIONS OF THE ROMAN CATHOLIC COMMUNITY, WHILE THE TAXES OUT OF WHICH STATE AID IS GRANTED TO THE SCHOOLS PROVIDED FOR BY THE STATUTE FALL ALIKE ON CATHOLICS AND PROTESTANTS. MOREOVER, WHILE THE CATHOLIC INHABITANTS REMAIN LIABLE TO LOCAL ASSESSMENT FOR SCHOOL PURPOSES, THE PROCEEDS OF THAT ASSESSMENT ARE NO LONGER DESTINED TO ANY EXTENT FOR THE SUPPORT OF CATHOLIC SCHOOLS. BUT AFFORD THE MEANS OF MAINTAINING SCHOOLS WHICH THEY REGARD AS NO MORE SUITABLE FOR THE EDUCATION OF CATHOLIC CHILDREN THAN IF THEY WERE DISTINCTIVELY PROTESTANT IN THEIR CHARACTER.

IN VIEW OF THIS COMPARISON IT DOES NOT SEEM POSSIBLE TO SAY THAT THE RIGHTS AND PRIVILEGES OF THE ROMAN CATHOLIC MINORITY IN RELATION TO EDUCATION, WHICH EXISTED PRIOR TO 1890, HAVE NOT BEEN AFFECTED.

Mr. Justice Taschereau says that the legislation of 1890, having been irrevocably held to be intra vires, cannot have "illegally" aflected any of the rights or privileges of the Catholic minority. But the word "illegally" has no place in the subsection in question. The appeal is given if the rights are in fact affected.

THOSE WHO WERE STIPULATING FOR THE PROVISIONS OF SECTION 22 AS A CONDITION OF THE UNION, AND THOSE WHO GAVE THEIR LEGISLATIVE ASSENT TO THE ACT BY WHICH IT WAS BROUGHT ABOUT, HAD IN VIEW THE PERILS THEN APPREHENDED. THE IMMEDIATE ADOPTION BY THE LEGISLATURE OF AN EDUCATIONAL SYSTEM OBNOXIOUS EITHER TO CATHOLICS OR PROTESTANTS WOULD NOT BE CONTEMPLATED AS POSSIBLE. AS HAS BEEN ALREADY STATED, THE ROMAN CATHOLICS AND PROTESTANTS IN THE PROVINCE WERE ABOUT EQUAL IN NUMBER. IT WAS IMPOSSIBLE AT THAT TIME FOR EITHER PARTY TO OBTAIN LEGISLATIVE SANCTION TO A SCHEME OF EDUCATION OBNOXIOUS TO THE OTHER. THE ESTABLISHMENT OF A SYSEM OF PUBLIC EDUCATION IN WHICH BOTH PARTIES WOULD CONCUR WAS PROBABLY THEN IN IMMEDIATE PROSPECT. THE LEGISLATURE OF MANITOBA FIRST MET ON THE 15TH OF MARCH, 1871. ON THE 3RD OF MAY FOLLOWING THE EDUCATION ACT OF 1871 RECEIVED THE ROYAL ASSENT. BUT THE FUTURE WAS UNCERTAIN. EITHER ROMAN CATHOLICS OR PROTESTANTS MIGHT BECOME THE PREPONDERATING POWER IN THE LEGISLATURE, AND IT MIGHT UNDER SUCH CONDITIONS BE IMPOSSIBLE FOR THE MINORITY TO PREVENT THE CREATION AT THE PUBLIC COST OF SCHOOLS WHICH, THOUGH ACCEPTABLE TO THE MAJORITY, COULD ONLY BE TAKEN ADVANTAGE OF BY THE MINORITY ON THE TERMS OF SACRIFICING THEIR CHERISHED CONVICTIONS. THE CHANGE TO A ROMAN CATHOLIC SYSTEM OF PUBLIC SCHOOLS WOULD HAVE BEEN REGARDED WITH AS MUCH DISTASTE BY THE PROTESTANTS OF THE PROVINCE AS THE CHANGE TO AN UNSECTARIAN SYSTEM WAS BY THE CATHOLICS.

And again :—

BEARING IN MIND THE CIRCUMSTANCES WHICH EXISTED IN 1870, IT DOES NOT APPEAR TO THEIR LORDSHIPS AN EXTRAVAGANT NOTION THAT IN CREATING A LEGISLATURE FOR THE PROVINCE WITH LIMITED POWERS IT SHOULD HAVE BEEN THOUGHT EXPEDIENT, IN CASE EITHER CATHOLICS OR PROTESTANTS BECAME PREPONDERANT, AND RIGHTS WHICH HAD COME INTO EXISTENCE UNDER DIFFERENT CIRCUMSTANCES WERE

INTERFERED WITH, TO GIVE THE DOMINION PARLIAMENT POWER TO LEGISLATE UPON MATTERS OF EDUCATION SO FAR AS WAS NECESSARY TO PROTECT THE PROTESTANT OR CATHOLIC MINORITY AS THE CASE MIGHT BE.

And :—

AS A MATTER OF FACT, THE OBJECTION OF ROMAN CATHOLICS TO SCHOOLS SUCH AS ALONE RECEIVE STATE AID UNDER THE ACT OF 1890 IS CONSCIENTIOUS AND DEEPLY ROOTED. If this had not been so, if there had been a system of public education acceptable to Catholics and Protestants alike, the elaborate enactments which have been the subject of so much controversy and consideration would have been unnecessary. IT IS NOTORIOUS THAT THERE WERE ACUTE DIFFERENCES OF OPINION BETWEEN CATHOLICS AND PROTESTANTS ON THE EDUCATION QUESTION PRIOR TO 1870. THIS IS RECOGNIZED AND EMPHASIZED IN ALMOST EVERY LINE OF THOSE ENACTMENTS. THERE IS NO DOUBT EITHER WHAT THE POINTS OF DIFFERENCE WERE, AND IT IS IN THE LIGHT OF THESE THAT THE 22ND SECTION OF THE MANITOBA ACT OF 1870, WHICH IS IN TRUTH A PARLIAMENTARY COMPACT, MUST BE READ.

For the reasons which have been given, their Lordships are of opinion that the 2nd subsection of section 22 of the Manitoba Act is the governing enactment, and that the appeal to the Governor-General-in-Council was admissible by virtue of that enactment ON THE GROUNDS SET FORTH IN THE MEMORIALS AND PETITIONS, inasmuch as the Acts of 1890 affected RIGHTS OR PRIVILEGES OF THE ROMAN CATHOLIC MINORITY in relation to education within the meaning of that subsection.

"The question is submitted whether "the Governor-General-in-Council has "power to make the declarations or "remedial orders asked for in the memorials or petitions, or has any other "jurisdiction in the premises. Their "Lordships have decided that the Gov-"ernor-General-in-COUNCIL HAS JUR-"ISDICTION, and THAT THE APPEAL "IS WELL FOUNDED, but the particu-"lar course to be pursued must be de-"termined by the authorities to whom "it has been committed by the statute. "It is not for this tribunal to intimate "THE PRECISE STEPS TO BE "TAKEN. Their general character is "sufficiently defined by THE 3RD SUB-"SECTION of section 22 of the Mani-"toba Act."

On Feb. 14, 1895.—MANITOBA LEGISLATURE MET. THE DOminion Government's communication was never laid before the Legislature.

Lieut.-Governor's speech at opening of Legislature, contained the following paragraph :—

"Whether or not a demand will be made by the Federal Government that that Act shall be modified . . . . it is not the intention of my government in any way to recede from its determination to uphold the present system."

Resolution carried in the Legislature, February 27th, 1895 :—

"That this House will, by all constitutional means, and to the utmost extent of its power, resist any steps which may be taken to attack the School system established by the Public School Act of 1890."

1895, March 4-7.—Argument at Ottawa before the Governor-General-in-Council, continued between Mr. McCarthy, Q.C., and Mr. Ewart, Q.C.

Mr. McCarthy.—WHAT I DESIRE TO SAY IS THAT THE ATTORNEY-GENERAL DID NOT ASK FOR ANY PARTICULAR POSTPONEMENT, BUT THE TENOR OF HIS LETTER IS THAT HE DESIRES TO PRESENT THE CASE HIMSELF. HE LOOKS UPON IT AS A MATTER OF GREAT IMPORTANCE —NOT EXACTLY WITH THE SAME VIEW AS MY LEARNED FRIEND HAS PRESENTED. HE DOES NOT WANT, OF COURSE, A CONFLICT WITH THE DOMINION, ALTHOUGH IT IS PLAIN ENOUGH THAT THE PROVINCE DOES NOT INTEND TO OBEY ANY REMEDIAL ORDER THAT MAY BE MADE."

Adjournment of the hearing was made to suit McCarthy.

The hearing by the Canadian Privy Council of the appeal of the minority was continued. Mr. McCarthy disclosed to the people of Canada, and disclosed to the committee, exactly the position that the Government of Manitoba were going to take in this matter. He said :—

I have not seen the Queen's Speech, but I should think the Lieutenant-Governor would not be allowed to say that. But I understand that the position of the Manitoba Government is that they will resist by every constitutional means in their power the passage of any remedial order, and that they will not obey the order, which is something that they have a perfect right to do.

Respecting the charge that no hearing or investigation occurred, Mr. McCarthy's thanks at end of hearing, were as follows :—

In conclusion I beg to thank the Council for your patient and attentive hearing. I certainly cannot complain of any want of attention and of respect for the gentlemen whom I represent—and I shall take care so to report to them; and whatever effect may be given to my arguments, they have had at the hands of this Council a most attentive hearing, and I thank you for your kindness in that regard.

It was, as will be seen, determined to make one more effort by another conciliatory appeal of the character that Mr Laurier so highly approves.

Of course, the official step in the procedure that the constitution required, in order that Parliament might ultimately have jurisdiction in the event of a continued refusal of concessions at Winnipeg, must be taken. That could no longer be delayed. The Provincial Goverment had plainly invited it and practically challenged it. To evade the issue now would be a cowardly and contemptible thing on the part of the Ottawa Government. The last session of Parliament, as then contemplated was about to convene; the Legislature was actually in session, and the session drawing to a close, so that delay at that time would have meant delay for a year at least, and for that there would be no justi-

fication. A remedial order must therefore be made. But along with and taking precedence over the order itself, there was sent to Winnipeg another communication, pleading once more with the provincial authorities that they should themselves deal with the question. Let this communication speak for itself. It was in the shape of a minute of council approved by the Governor-General on the 19th of March, 1895. Like the minute of July, 1894, it set out very fully the complaints of the minority; it set out also the various contentions set up on both sides before the courts and before his Excellency-in-Council. In particular, reference was made to the contention of Manitoba's advocate before the Governor-General-in-Council, that legislation once passed at Ottawa could be neither repealed nor modified by any power short of the Imperial Parliament—that the assumption by Parliament of its authority to legislate would in fact take away the exclusive jurisdiction from Manitoba forever, unless the Imperial authorities intervened. The Provincial Government was reminded that while its failure to deal with the question "might compel Parliament to give relief," yet, "the Provincial Legislature is the proper and primary source" from which relief should come. And in language that was as earnest as it was courteous, this communication proceeded to urge upon the Legislature that it should not, by refusing to deal with the question, run the risk of "permanently divesting itself, in a very large measure of its authority, and so establish in the province an educational system which cannot be altered or repealed by any legislative body in Canada."

What reply did the Government and Legislature of the province make to the courteous and temperate appeal of March, 1895, that accompanied the remedial order, and that so plainly intimated that a re-enactment of the old law was not at all necessary? The receipt of this most important communication was wholly and absolutely ignored. No reply to it was vouchsafed—even the receipt of it was not so much as acknowledged. A reply to the order itself was in due time sent from the Legislature upon the motion of the Government, but it made no reference to the receipt of any communication other than the formal order. To avoid any possibility of the reply being interpreted as dealing with anything beyond that formal document, it was actually set out verbatim in the reply, which then proceeded to deal with the document as there set forth, and as if it had been the only communication received. A proposal actually came before the House, by way of an amendment, that this communication should be acknowledged, and that consideration should be given to it. BUT THIS WAS RESOLUTELY OPPOSED BY THE GOVERNMENT OF MANITOBA and promptly voted down. Of course it followed that the suggestions made, and the considerations presented, in the accompanying message, were totally ignored. And the remedial order was treated as being a demand for the restoration of the old law. "We are commanded to restore to the Roman Catholics," said the reply of Manitoba, "substantially the same privileges which they enjoyed previously to 1890."

As as been shown on the argument of the appeal in Ottawa Mr. Dalton McCarthy, who appeared as counsel for Manitoba, openly stated, in the course of the argument, that he understood the position of the Manitoba Government to be that if a remedial order was made "they will not obey the order."

What purpose, at this stage therefore, could be served by attempting further negotiation or making further conciliatory approaches, after the curt rejection of the overture of July, 1894, followed by the peremptory declaration at the opening of the Legislature that whether a remedial order was made or not there would be no concession by the province; followed too, a few days later, by the decisive declaration of the Legislature that any action on the part of Ottawa by way of giving the relief that the constitution contemplated would be "resisted," and that to the utmost extent of all the powers that the Legislature could command; followed again, a little later on, by the official statement of Manitoba's advocate before the Governor-General-in-Council that if a remedial order were made it would be met by defiance on the part of the province?

It was nevertheless determined to put beyond doubt the fact that Manitoba would not act. They did not reply until the 25th of June, 1895. One month after the receipt of that reply, on the 27TH OF JULY, 1895, the Government of Canada transmitted to the Lieutenant-Governor of Manitoba a communication to be laid before his advisers and before the Legislature.

Read what the Government said :—

"Fully appreciating the importance "of the points involved in the above "quoted paragraphs, the sub-committee beg leave to suggest that your "Excellency's Government should avail "themselves of the invitation expressed in the memorial for further discussion of the subject, and that the "attention of the provincial authorities of Manitoba should be invited "to certain considerations suggested "by the foregoing extracts.

"In the interest of all concerned it "will not be disputed that if possible "the subject of education should be "exclusively dealt with by the local "legislature. Upon every ground in "the opinion of the sub-committee this "course is to be preferred, and with

"the hope that this course may yet "be followed the sub-committee have "now the honour to recommend that "your Excellency will be pleased to "urge upon the Government of Mani-"toba the following further views "which may be pressed in connection "with the remedial order.

"The remedial order coupled with "the answer of the Manitoba Govern-"ment has vested the Federal Legis-"lature with complete jurisdiction in "the premises, but it by no means "follows, that it is the duty of the "Federal Government to insist that "provincial legislation to be mutually "satisfactory should follow the exact "lines of this order. It is hoped, "however, that a middle course will "commend itself to the local authori-"ties, so that Federal action may be-"come unnecessary.

"With a view to a settlement upon "this basis, it seems desirable to as-"certain by friendly negotiations what "amendments to the Acts respecting "education in public schools in the di-"rection of the main wishes of the "minority may be expected from the "Manitoba legislature.

"It is believed by the sub-committee "that the religious opinions and rights "which have been recognized in the "judgment of the Judical Committee "of the Imperial Privy Council could "be sufficiently met by the local legis-"lature without impairing the effici-"ency or proper conduct, management "and regulation of the public schools.

"It is with the object of effecting "some such changes in the educational "system of Manitoba that the sub-"committee desire that an expression "of opinion be obtained from the Gov-"ernment of Manitoba. It was with "this view that the Canadian Govern-"ment at the last session of the "Federal Parliament made the follow-"ing announcement :—

"Though there may be differences "of opinion as to the exact meaning "of the reply in question, the Govern-"ment believes that it may be inter-"preted as holding out some hope of "an amicable settlement of the Mani-"toba school question on the basis of "possible action by the Manitoba "Government and legislature; and the "Dominion Government is most un-"willing to take any action which can "be interpreted as forestalling or pre-"cluding such a desirable consumma-"tion. The Government has also con-"sidered the difficulties to be met "with in preparing and perfecting "legislation on so important and in-"tricate a question during the last "hours of the session. The Govern-"ment has, therefore, decided not to "ask Parliament to deal with remedial "legislation during the present session. "A communication will be sent im-"mediately to the Manitoba Govern-"ment on the subject, with a view to "ascertaining whether that Govern-"ment is disposed to make a settle-"ment of the question, which will be "reasonably satisfactory to the min-"ority of that province, without mak-"ing it necessary to call into requisi-"tion the powers of the Dominion "Parliament. A session of the pre-"sent Parliament will be called to-"gether, to meet not later than the "first Thursday of January next. If "by that time the Manitoba Govern-"ment fails to make a satisfactory "arrangement to remedy the griev-"ance of the minority, the Dominion "Government will be prepared, at the "next session of Parliament, to be "called as above stated, to introduce "and press to a conclusion such legis-"lation as will afford an adequate "measure of relief to the said minor-"ity based upon the line of judgment "of the Privy Council, and the reme-"dial order of the 21st March, 1895."

"The sub-committee have, therefore, "the honour to recommend that your "Excellency will be pleased to cause "communication to be had through "the Lieutenant-Governor of Mani-"toba with the Government of that "province, in order to ascertain upon "what lines the local authorities of "Manitoba will be prepared to pro-"mote amendments to the Acts re-"specting education in schools in that "province, and whether any arrange-"ment is possible with the Manitoba "Government, which will render ac-"tion by the Federal Parliament, in "this connection, unnecessary.

To this communication of July, no reply was sent to the Ottawa Government until within two days of the session of January, 1896. The reply gave no indication of any desire on the part of the Manitoba Government to do anything, but show the Federal authorities they were not acquainted with the subject.

A COMMISSION OF INQUIRY HAS BEEN SUGGESTED BY MR. LAURIER; BUT THE COUNSEL FOR MANITOBA RIDICULES THE NECESSITY FOR SUCH PROCEDURE.

Mr. McCarthy in 1893, said :—

The Government, with a full knowledge of all the facts of this case, knowing the facts, because they were ascertained in the trial of the cause, knowing all these facts, there being nothing to be discovered, and nothing to be brought out.

Mr. McCarthy again, in 1893, said :—

"Remember, I do not object to the parties appealing; but when the appeal came, if the facts and the law were known—as the facts were known, and the law was there to be read—it was just as easy to determine then whether the appeal should be allowed as at a later date."

Mr. McCarthy at Peterboro', Feb. 22, 1895, said :—

ALL THE FACTS WERE KNOWN, AND THE LAW WAS KNOWN. IF THE ORDER WENT MANITOBA WAS NOT BOUND TO OBEY IT, AND HE VENTURED TO SAY WITHOUT A GREAT PROPHETIC FLIGHT THAT MANITOBA WOULD NOT OBEY IT.

At Orangeville (7th Nov., 1895) Mr.

Dalton McCarthy (Mr. Greenway's senior counsel) said :—

"I DO NOT THINK THERE IS A CORPORAL'S GUARD OF MEN IN CARDWELL WHO WANT FURTHER INFORMATION. IF YOU DO WE WILL SUPPLY IT FROM THE STATISTICS OF WHICH WE HAVE AN AMPLE SUPPLY."

The Manitoba legislature, not having complied with this request, the Parliament of Canada in March, 1896, adopted the second reading of a Bill entitled "The Remedial Act" for the purpose of effecting substantially and as far as is practically possible at present by Federal legislation what the judgment and remedial order requires.

A long discussion ended on Friday, March 20th, when the second reading was carried by 112 votes to 94.

The opposition to the Bill became formidable only by the action of the leader of the Opposition who apparently bids for the extreme Protestant vote, believing that as a Roman Catholic he can hold a large part of the Catholic vote through their idea that if sustained in the country, he will ultimately secure to the Roman Catholic minority the rights of which they have been shorn.

Certain it is that without his opposition the resistance to the bill would have been, so far as Parliament is concerned, helplessly weak, if not ridiculous.

The Government acts upon the idea that a duty has devolved upon it, under the constitution, to pass this measure regardless of individual preferences for any particular system of public schools. The "Parliamentary Compact" must be faithfully observed.

The question has been disputed for years, but some of the opponents of the measure profess that further delay is advisable in the hope that the legislature of Manitoba may act, and so render Federal interference unnecessary.

Others oppose the measure altogether, objecting to the principle of Separate schools; and others again because they are of opinion that no interference with the provincial legislature's autonomy should occur, unless in the case of gross and grinding injustice.

THE GOVERNMENT SENT A DELEGATION TO MANITOBA, while the bill was being discussed in committee to ascertain whether that province would even now by legislation so act as to render further consideration in the Canadian Parliament unnecessary.

The Manitoba Government will not consent to even a fair compromise. Remedial legislation is therefore the last resort.

The representatives of the Federal Government promptly placed before the representatives of the Manitoba Government these suggestions :—

"Legislation shall be passed at the present session of the Manitoba Legislature to provide that in towns and villages where there are resident, say, twenty-five Roman Catholic children of school age, and in cities where there are, say, fifty of such children, the Board of Trustees shall arrange that such children shall have a schoolhouse or school-room for their own use, where they may be taught by a Roman Catholic teacher, and Roman Catholic parents or guardians, say, ten in number, may appeal to the Department of Education from any decision or neglect of the Board in respect of its duty under this clause, and the Board shall observe and carry out all decisions and directions of the Department on any such appeal.

"Provision shall be made by this legislation that schools wherein the majority of children are Catholics should be exempted from the requirements of the regulations as to religious exercises.

"That text-books be permitted in Catholic schools such as will not offend the religious views of the minority, and which from an educational standpoint shall be satisfactory to the Advisory Board.

"Catholics to have representation on the Advisory Board. Catholics to have representation on the Board of Examiners appointed to examine teachers for certificates.

"It is also claimed that Catholics should have assistance in the maintenance of a Normal schol for the education of their teachers.

"The existing system of permits to non-qualified teachers in Catholic schools to be continued for, say, two years, to enable them to qualify, and then to be entirely discontinued.

"In all other respects the schools at which Catholics attend to be Public schools, and subject to every provision of the education acts for the time being in force in Manitoba.

"A written agreement having been arrived at, and the necessary legislation passed, the Remedial Bill now before Parliament is to be withdrawn, and any rights and privileges which may be claimed by the minority in view of the decision of the Judicial Committee of the Privy Council shall during the due observance of such agreement remain in abeyance and be not further insisted upon.

"(Signed),

"DONALD A. SMITH.
"ALPHONSE DESJARDINS.
"A. R. DICKEY.

"March 28th, 1896."

These reasonable proposals for a compromise were rejected by the Manitoba Government.

It did not, however, intimate that

on account of the Remedial Order or other proceedings it could not negotiate, nor did it suggest that further enquiry was necessary. On the contrary, the Manitoba Government, after rejecting the proposal of the Dominion representatives, made a counter offer in the alternative :—

First, to "secularize the Public school system, eliminating religious exercises and teaching of every kind during school hours."

The alternative proposal of Manitoba reads as follows :—

Second.—In the alternative we offer to repeal the present provisions of the School Act relating to religious exercises, and to enact in substance the following :—

"No religious exercises or teaching to take place in any Public school, except as provided in the Act. Such exercises or teaching, when held, to be between half-past three and four o'clock in the afternoon."

"If authorized by resolution of the trustees, such resolution to be assented to by a majority, religious exercises and teaching to be held in any Public school between 3.30 and 4 o'clock in the afternoon. Such religious exercises and teaching to be conducted by any Christian clergyman whose charge includes any portion of the school district, or by any person satisfactory to a majority of the trustees who may be authorized by said clergymen to act in his stead ; the trustees to allot the period fixed for religious exercises or teaching for the different days of the week to the representatives of the different religious denominations to which the pupils may belong in such a way as to proportion the time allotted as nearly as possible to the number of pupils in the school of the respective denominations. Two or more denominations to have the privilege of uniting for the purpose of such religious exercises. If no duly authorized representative of any of the denominations attend, the regular school work to be carried on until four o'clock."

"No pupil to be permitted to be present at such religious exercises or teaching if the parents shall object. In such case the pupil to be dismissed at 3.30."

"Where the school-room accommodation at the disposal of the trustees permits, instead of allotting different days of the week to different denominations, the trustees to direct that the pupils shall be separated and placed in different rooms for the purpose of religious exercises as may be convenient."

From these negotiations it is clear that the substantial rights of the Catholic minority, as upheld by the Judicial Committee of the Privy Council, will not be restored without the aid of Federal legislation.

The uselessness of a commission or of further negotiations is abundantly apparent.

Those Protestants who fear that the system established in 1871, abolished in 1890, and proposed to be partially but substantially restored in 1896, threatens any way the interests of Canada or of the Empire, would do well to LOOK AT THE BRITISH ISLES, where the denominational system of education almost wholly prevails.

Respecting the elementary and State aided schools, Mr. Balfour, one of the CONSERVATIVE LEADERS IN ENGLAND, said at St. Helen's, on the 11th July, 1896 (London Times, July 12th, 1895) :—

"In Ireland at this moment you have what is practically and substantially denominational education entirely supported out of the money of the taxpayer. In Scotland you have universal and compulsory School Boards, but the School Boards in Scotland are permitted to do what they are not permitted to do in England, namely, to teach the formulas of the particular denominations, and the liberty which has been given them by law is a liberty which they are not slow to exercise. In England, for reasons well known to those who have followed the history of our educational legislation, the system is entirely and absolutely different, and it must be judged by different rules and reformed, if it is to be reformed, upon different principles.

"Your English system attempts to combine, and does in fact combine, voluntary education and rate-assisted education. It combines schools usually under the control of some denomination or other—the Church of England, or the Wesleyans, or Roman Catholics. Schools of that kind are combined in a system with schools entirely supported out of the rates in which the religious education is carried on subject to certain conditions imposed by Act of Parliament."

* * * * *

"I say it is a monstrous thing to compel parents whose children are at school all day long to send them to schools where the religious training and the religious education which they desire to see instilled into their youthful minds cannot be instilled, cannot be taught."

* * * * *

Dublin Freeman's Journal, 28th Aug., '95, quoting from London Times in re claim of English denominational schools to payment from the rates in proportion to the work they do :—

"Even those," says the Times, "who were formerly opposed to the notion of State aid to religious teaching in any shape or form have come round to the view that it is unwise to press harshly on the conscientious convictions of a very large proportion of the English people in order to round off a theory of educational delimitation."

* * * * *

The following resolutions, among others, were adopted at an ORANGE DEMONSTRATION HELD AT DOWNPATRICK, IRELAND, on 12th Dec., 1895, Wm. Johnston, M.P., of Ballykilbeg, in the chair :—

1. That Bro. Wm. Johnston, M.P.,

D.G.M., Ireland, and D. M. Lecain, to take the chair. Proposed by Bro. Major J. H. Blackwood Price, J.P., D.D.M., No. 5, seconded by Bro. Robert Brown, D.G.T. Down and D.M. No. 18.

We offer our hearty congratulations to Her Majesty's Government on their great victory at the recent general election, and trust that their efforts will be unabated to maintain the integrity of the Empire, and we are glad to see that the present policy of the Colonial Office tends not to disintegration, but towards Imperial Federation."

Proposed by Bro. Rev. Canon Crozier, D.D., seconded by Bro. C. W. Dunbar-Buller, D.L., and supported by Bro. Colonel E. J. Saunderson, M.P.,

"That no change in the system of national education can be accepted by Protestants in Ireland which in any way weakens the three-fold protection now secured for religious minorities, viz., the stated hours of religious education, the prohibition of religious emblems at other times, and the prohibition of religious instruction to which the parents object: and, further, that inasmuch as university education in this country is open to all men, without any religious tests, we consider that to take public money to endow a Roman Catholic university would be a misappropriation of public funds."

Mr. Johnston, the chairman, putting the above resolution to the meeting, said he "hoped they would carry it with such a shout that their voices would be heard in the Chief Secretary's lodge in Dublin, and from thence would be carried across to London.

Finally a Bill entitled "A Bill to make further provision for EDUCATION IN ENGLAND AND WALES" was introduced in 1896 by the Conservative Government in England, which involves the very principles so hotly discussed in Canada just now.

The difference, of course, between the situation of the British and Canadian Governments consists in the duty cast upon the latter to see that the "Parliamentary Compact" of 1870 is faithfully observed, whether the Government prefer one system of schools to another, whereas in England the Government is free to adopt any system of education which it approves.

By the English bill the special aid from State funds is largely increased for the voluntary and denominational schools as distinguished from the Public or Board schools.

Clause 27 of this bill reads as follows:—

"One of the regulations in accordance with which a public elementary school is required to be conducted shall be that if the parents of a reasonable number of scholars attending the school require that separate religious instructions be given to their children the managers shall, so far as practicable—whether the religious instruction in the school is regulated by any trust, deed, scheme, or other instrument or not—permit reasonable arrangements to be made for allowing such religious instruction to be given, they shall not be prevented from doing so by the provisions of any such deed, scheme, or instrument."

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# OPINIONS OF CANADIAN STATESMEN

"Hansard", of 1872, p. 103 (Globe reports), shows that when dealing with the New Brunswick school question Mr. Blake said:—

He gave notice that it was intended at a later stage to move an addition to the motion of Mr. Colby, if that should be adopted, in the following sense:—"And that this House deems it expedient that the opinion of the legal authorities in England should be obtained as to the rights of the New Brunswick Legislature to make such changes in the school law as to deprive the Roman Catholics of the privileges they enjoyed at the time of the union, in respect of religious education in the Public schools, with a view of ascertaining whether the case comes under the terms of the fourth section of the 93rd clause of the British North America Act, 1867, which authorized the Parliament of Canada to enact remedial laws for the due execution of the provisions respecting education in the said Act." If the local Act did come within the provisions of that section, it would be found quite competent for this Parliament to do that justice which was necessary in case the Legislature of New Brunswick declined to act, but he would fain believe, he did from his heart hope that that Legislature would be disposed by its voluntary action to much such an alteration as to enable the minority to enjoy those principles which they enjoyed at the period of the union.

If they should fail, however, to do this it would be the incumbent duty of this Parliament, should the local law be a violation of the constitution, so to act as to restore the rights of which the minority would in that event have been unjustly deprived.

Mr. Mackenzie on the same occasion remarked:—

He believed then, as he had always believed, that a system of secular education was the one best adapted to promote the education of the people. But they were then creating a constitution which in itself was a compromise of political views, and in preparing

the way for that constitution, it became necessary in the one case to agree to the construction of the great Intercolonial railway as one of the terms of the inter-provincial agreement required. It also became necessary in the other case to agree to continue the system of Separate schools for the Roman Catholics, then in operation in Upper Canada, as a perpetual principle of our common school system. He could not help feeling that it would be but fair that so far as the terms of the constitution would allow it the same rights should be extended to the Roman Catholic minorities in the other provinces, if we did not in extending those rights, infringe upon the peculiar province of the local legislatures. Whether they had done that or not he could not say; but it seemed to him, from very careful reading of the Union Act, and the New Brunswick School Act, that there was at least much room for doubt, and the weaker party ought to have, as far as possible, the benefit of that doubt. Under these circumstances he had been led to give the vote he had given to-night, although in the last vote, if the Government had not agreed to accept the amendment that had been read by the hon. member for West Durham, and which he was about to offer, the vote might have very materially differed from what it actually was. Many on his side would have preferred voting for the extreme measure of recommending a disallowance of the Act rather than deprive the minority in New Brunswick of all possible chance of redress for the wrong committed, but he had confidence in the deliverance of the Judicial Committee of the Privy Council, and if it should turn out that there had been a mistake committed in dealing with this question by the present Administration the Judicial Committee would undoubtedly give such an opinion AS WOULD COMPEL THE ADMINISTRATION OF THIS HOUSE TO DO JUSTICE IN THIS PARTICULAR. He did not propose to detain the House by discussing this subject, as it had been very fully discussed in its legal aspect by the hon. member for West Durham, with whose opinion he fully concurred.

Now, Sir John Macdonald has given expression to his opinion—very strong expression. Speaking of the Roman Catholics in New Brunswick in 1872 he said:—

"The true course was to fight in the local Legislature for Separate schools. If they wanted them let them follow the example of the Catholics of Ontario. He believed they had a just cause, and it was for the interests of education if the Catholics wanted Separate schools to grant them. An important body like the New Brunswick Catholics could succeed if they struggled for their object like the Catholics elsewhere. If they obtained Separate schools the Confederation Act would guarantee them in their possession.

In their observations we find Mr. Blake and Mr. Mackenzie would, if in Parliament, be governed by the opinion of the Judicial Committee of 1895 in this case; and that Sir John—as all others at that time—in 1872 supposed that under the legislation of his own hand, when Separate schools were once conceded, the appeal clause in the constitution would operate as a guarantee of the permanency thereof.